

1905-040 Chancery Causes: Susan S. McDowell vs. T. C. McDowell
Lee Co.

Stickley, McNeil, Jones, Ewing, Mancy, Ely

CA-Estate Dispute

T-Property

Will: 1895 : John M. McDowell : Lee County

To the Honorable H.A.W. Skeen, Judge of the Circuit Court of Lee County, Virginia:

Humbly complaining your Oratrix, Susan⁸ Mc.Dowell, a citizen of this County, would respectfully show unto your Honor that she is the widow of the late John McDowell formerly a citizen of this County; that the said John McDowell prior to the 17th day of January, 1895, was the owner of a valuable tract of land situated in Lee County, Virginia, in the White Shoals neighborhood; that on that day the said John McDowell made and executed a deed by which he conveyed said tract of land to his son T.C. McDowell in which deed your Oratrix joined; that the consideration mentioned in said deed is \$2500.00 the receipt of which is acknowledged, but your oratrix will show that this recital of consideration and its payment were merely formal, that in fact and in truth no monetary consideration at all passed, or induced said conveyance, but the purpose of this deed was to make provision for the support of himself the said John McDowell, who was then in very infirm health and not expected to live for a much longer period of time, and to make provision for your oratrix, his then wife during the remainder of her life-time and to make provision for the care and support of a daughter of your Oratrix and her said husband, who was then likewise in very poor health, so long as she lived or staid with them. The language of the deed in that respect is (without the bad spelling) as follows:

"But the said John McDowell and wife are to have their support from the said land during their natural life-time and the said T.C. McDowell is to cultivate said land and provide for the support of the said John McDowell and wife, and Lizzie McDowell as long as she stays with them during their life-time, and if the said T.C. McDowell should fail to cultivate the said land and provide for their support then the said John McDowell shall have the right to rent the land for the support of himself and wife during their life-time, and Lizzie McDowell as long as she stays with them."

All of which will more fully and at large appear by reference to said deed, a certified copy of which is filed herewith as part hereof, marked "Exhibit A".

Your oratrix will now further show your Honor that the said John McDowell died very shortly after the execution and delivery of said deed, said death occurring between the said 17th day of January, and

the 4th day of March, 1895; and that the said Lizzie McDowell ~~xxx~~ died shortly thereafter.

Your oratrix will now show your Honor that notwithstanding the valuable gift made by the said deed to the said T.C.McDowell, and notwithstanding the fact of the careful provision for her support and maintainance provided for in and by said deed, her said son, the said T.C.McDowell has utterly failed to provide for and support your oratrix. After the death of the said John McDowell the said T.C.McDowell, who was then a single man lived with your oratrix, but instead of supporting her she practically supported him, and during that time she was possessed of valuable personal property, money &c. amounting to something like \$500.00 all of which the said T.C.McDowell managed to get into his hands and dispose of, and the only thing she has to show for the same is the said T.C.McDowell's note, which he has refused to pay and she has been compelled to bring suit thereon, which suit is now pending in in the Circuit Court of Lee County, on the law side thereof. After thus acquiring her property, as aforesaid, the said T.C.McDowell left your oratrix to shift for herself in her old age and remained away some two or three years, not contributing one cent towards her support and maintainance. Recently the said T.C.McDowell has returned to said farm, taking possession thereof and has turned your Oratrix out of a home without any provision at all made for her support and maintainance.

Your Oratrix is advised that she is entitled to a comfortable support and maintainance from said land. She is likewise advised that she is entitled to recover from the said T.C.McDowell the reasonable value and cost of her support and maintainance from the several years which he has failed to support her. This failure has lasted already for five years or more, and she alleges a reasonable support and maintainance in accordance with her age and condition in life would not be less than \$200.00, and she asks that she be given judgment for the sum of \$1000.00 at the least for the years which he has failed to support and maintain her and that said sum be decreed to be a lien upon said land; and she is further advised that

she has a right to her future support and maintainance and she asks that the same be made a charge on said land annually, and that said land be placed in the hands of a Receiver or Trustee and that he be vested with the same right which the said John McDowell reserved in said deed, i.e. the right to rent said land for the support of himself and your Oratrix in the event that said T.C.McDowell failed and refused to support and maintain them.

Your Oratrix will now show your Honor that she is ____ years old, infirm in health, broken and disturbed in mind and spirit, and that she is unable to support herself and has no person upon whom she can call for that support and maintainance which is necessary to her age, condition and station in life, except to call upon him, who by the patrimony he has received, is legally and morally chargeable therewith, and which has been so woefully denied her ^{by} her said son; and being without adequate remedy at law your Oratrix prays your Honor's Court of Chancery to take cognizance of her cause and grant her the relief to which she is entitled and to this end she makes the said T.C.McDowell the party defendant to this bill and prays that he be required to answer the same but not under oath, answer under oath being expressly waived, and upon a final hearing she prays that the said T.C.McDowell be compelled to pay her the sum which he is due her for her support and maintainance which he had obligated himself by the acceptance of said deed to furnish to her; that the amount thus due and owing to her be duly ascertained; that a Commissioner be appointed for the purpose of ascertaining it; that her future support and maintainance be decreed a charge upon said land, and that, if necessary, the amount to be furnished to her each year shall be ascertained, and that said land be decreed to be sold, or rented, as the Court thinks proper to secure the same to her; and if in anywise mistaken in her special prayer then she prays for full and complete general relief.

And as in duty bound she will ever pray &c.

W. G. Ely
Duncan & Criddle) :- p. q.

Susan McDowell
vs. { In Chy.
T. C. McDowell
— Bill —

Filed 1st Aug. Rules 1904
N. C. Ewing, clk.
1904 1st Aug. Rules.
Spa. executed &
D.N.
2nd Aug. Rules.
D.N. confirmed &
cause set for hear-
ing by plaintiff.

Plff's Costs:
Clerk \$6.93
Shff. 2.10
N.C. 9.75
Wits. 4.16
\$22.94
Atty. 15.00
\$37.94

Defts. Costs:
Clerk \$5.55
Fee for Depo. 2.25
2.80

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia:

The demurrer and answer of T. C. McDowell to a bill filed in this honorable court against him by Susan McDowell. For demurrer thereto respondent says that the said bill is not sufficient in law for him to be called upon to answer and he demurs thereto, and not waiving said demurrer, but insisting thereon, ~~and~~ should any other or further answer be necessary, answering he says: That it is true that John McDowell and Susan McDowell, his wife, on the 17th day of January, 1895, executed and delivered to respondent the deed, a copy of which is exhibited with plaintiff's bill, by which they conveyed to respondent the tract of land mentioned and described in said deed, and upon the terms and conditions specified therein, and that your respondent went into possession of said tract of land under the said deed. It is likewise true that the intention of the said deed, and the consideration moving the execution of the same, was the support and maintenance of the said John McDowell and Susan McDowell during their natural lives, and Lizzie McDowell the sister of respondent, as long as she might stay with them, and it is likewise true that the said John McDowell and Lizzie McDowell, soon after the execution of said deed, each departed this life. It is not true, however, that the support of the plaintiff was in terms made a charge upon said land by the said deed. It is true, however, that her support and maintenance was one of the considerations in the said deed when executed; and it is not true that this respondent has failed to provide for the support of his said mother; and it is not true that while she lived with him that he failed to support her and that she practically supported him; and it is not true that this respondent converted valuable personal property, money &c, belonging to said plaintiff, to his own use to the amount of \$500.00, or any other sum without properly accounting to her therefor. It is true that respondent became indebted to the said plaintiff, or was influenced by her to execute to her the note

on which a suit is now pending at law, but it is not true that he ever received a valuable consideration for said note; and it is not true that this respondent has recently returned to said farm and took possession thereof, and turned the plaintiff out of a home without any provision at all for her support and maintenance. Upon the other hand, it is true, that this respondent supported and maintained and took care of his said mother as long as she would remain upon the farm where he could support and take care of her, but from some cause or other she became dissatisfied, and as your respondent alleges and believes, was persuaded and influenced by others to leave the farm and make her home at another place; and this respondent avers that under the deed before referred to, the support and maintenance, therein provided for, was to be had and furnished on the farm and premises in said deed, conveying said land, mentioned, and this your respondent has always been ready and willing to do, and he is now ready and willing to comply with the terms of the said deed when-ever the plaintiff will return to and remain on said farm. And your respondent denies that he is indebted to the plaintiff in the sum of \$1000.00, or any other sum for her support and maintenance, because, as before stated, he says that he did support and maintain her as long as she would remain on the farm and permit him to do so, and her removal therefrom and her making her home with J. E. McDowell was voluntary upon her part and entirely unnecessary, unless she saw fit to abandon and disregard the provision in said deed and make her home elsewhere, and look for her support and maintenance to ~~some~~ a source other than your respondent; and he denies her right to have any sum decreed in this cause in her favor for her past support and maintenance, and the same made a lien upon said land, and he like-wise denies her right to have a receiver or trustee appointed to take charge of said land and rent the same for her support and maintenance, as he is perfectly willing to support and maintain his said mother at any time ~~hereafter~~ when she will return and remain on the farm. He further de-nies

nies her right to have her future support and maintainance made a charge upon said land unless she would return and live upon the farm as was contemplated by said deed,' and he likewise denies her right to have the said land sold or rented for her support and maintainance either past or in the future. And now having fully answer^{ed} he prays to be hence dismissed with his reasonable costs,

Chas. Veal for
defendant.

J. C. McDowell
ado { Susan.
Susan McDowell.

Filed 1st Nov. R. 1904.
H. C. T. Ewing, clk.

Susan McDowell - - - - - Plaintiff.

vs.

In Chancery.

T. C. McDowell, - - - - - Defendant.

This cause came on this day to be heard upon the bill of the complainant and exhibits therewith, the answer of the defendant, the depositions of witnesses, and an agreement between the parties dated on the 17th day of April, 1905, and filed in said cause, and was argued by counsel.

On consideration of which, and pursuant to said agreement it is adjudged, ordered and decreed that the plaintiff recover of the defendant the sum of \$150.00, which is for the benefit of M.G.Ely Geo.P.Cridlin and C.T.Duncan attorneys for the plaintiff; and it is further adjudged, ordered and decreed that said plaintiff recover of the said defendant the sum of \$75.00, each year, during her natural life, beginning with the 1st day of January, 1906; said sum to be paid in quarterly installments, each year, for which said sum of \$150.00, first above mentioned, execution may issue, and on said latter recoveries execution may issue on the request of the plaintiff at the end of each quarter. It is further adjudged, ordered and decreed that each of the above mentioned recoveries constitute a vendor's lien on said land under and pursuant to the deed of John McDowell and wife to T.C.McDowell, dated January, 17th 1895, on the lands described in said deed.

It is further adjudged, ordered and decreed that each party to said cause pay his and her own respective costs incurred therein and this cause is stricken from the docket.

Substant M Dowd

vs. *Deena Hunt*

T. C. McDowell

Entered in *C.B.*
No. 8 Page 13

Entered this

As a witness

May 15th 1905

complaint and exhibits therewith, the answer of the defendant,
into cases came on this day to be read upon the bill of the
T. C. McDowell, - - - - - Defendant.
vs. - - - - - Plaintiff.
In Chancery.

S. S. McDowell

Plaintiff

against
S. S. McDowell. Defendant

Inches

By agreement of the parties this cause
is continued and the defendant is
given until the first November
Reckes 1904, to file his answer.

S. S. McDowell
of Order
J. B. McDowell

Enter Chey O.B.

No = 7, page 534-

Enter this Order.
H. C. W. Shaw
Sept 29th 1904.

The deposition of Susan McDowell and others, taken before me, Geo.P.Cridlin, a notary public in and for the County of Lee in the State of Virginia, on the 25th day of November, 1904, at the law office of M.G.Ely, in the town of Jonesville, Va. pursuant to agreement of parties, which depositions are intended to be read as evidence in behalf of the plaintiff in a certain suit in Chancery now pending in the Chancery cause of Susan McDowell vs. T.C.McDowell.

Present M.G.Ely and C.T.Duncan, counsel for plaintiff; and

James W.Orr, of counsel for defendant.

Susan McDowell a witness being duly sworn deposes as follows:

Q.1.-- Please state your age and present place of residence?

A.--I am 70 years of age. I live near Towell's Ford with my son Ervin McDowell.

Q.2.-- Are you the widow of the late John McDowell, deceased?

A.-- I am.

Q.3.-- Please state the date of the death of your husband, and also the date of the death of your daughter Lizzie McDowell?

A.-- My husband died in February, 1895, and my daughter Lizzie died in the month of May following.

Q.4.-- Please state how you have lived, where you have lived, and how you have been supported from the date of your husband's death down to the present time.

A.-- I lived at my old home till last Spring. I lived with myself alone a good part of my time. My son Ervine came home during the time and staid with me and helped me what he could, as long as his brother T.C.McDowell would permit him. I had too look out for my own support principally. My son Ervine while he was away often sent me things, and the neighbors helped me some..

Q.5.-- Please state to what extent, if any, your son T.C.McDowell contributed to you support and maintainance during the years you remained at the old home place?

A.-- I can't say that he helped anything, except when there was some stuff raised on the place, and I was then working almost night and day cooking for him and his hands, I ate there then.

Q.6.

Q.6.-- Please state whether or not the said T.C.McDowell, during these years furnished you with any clothing, medical attention or anything of that kind, if so to what extent?

A.--Soon after the death of my husband he bought me some slippers, and that is all I now remember. I sent by him for a dress to Mr. Yeary's store, and told him to have it charged to me. I went down afterwards and paid for it and when I came back my son came to me said said he had paid for it. I don't know how this is, but I do know that if did pay for it it was paid for twice. He never did furnish me any medical attention, I paid my own doctor bills.

Q.7.-- How much property, if any, did you have after your husband died?

A.--I had several head of cattle, some horse stock, several head, household and kitchen furniture, grain and provision in plenty, and other property, as shown by the will of said McDowell. I would think that the property that I had was worth more than \$500.00 though I cannot exactly tell as I am not a judge of such matters.

Obj.-- The foregoing question and answer thereto is objected to because the same seeks to make a charge against the defendant when by the allegations of the plaintiff's bill the property mentioned, has been accounted for by the defendant in the execution of the note sued on at law, and no effort is made in the bill to make any charge against the defendant except for a failure to support and maintain the defendant under the deed exhibited with the bill.

Orr & Noel, for defts.

Q.8.-- What became of that property?

A.-- My son T.C.McDowell, used it as he pleased, against my will.

Obj.-- Objected to for reason stated in objection next above.

Orr & Noel, for defts.

Q.9.-- Did your son afterwards account to you for said property by executing his note therefor?

A.--Yes he accounted for apart of it to the extent of the note upon which I have brought suit at law. The notes is for \$484.51.

Obj.-- Excepted to as inadmissable, because if the execution of the note was in settlement for these matters which it is admitted

it was, it was a settlement of the entire matter and must have been accepted as such, and the ~~defendant~~ ^{Plff} cannot prove anything behind the execution of the note, as a charge against the defendant.

Orr & Noel, attys.

Q10.-- During the time you remained on said farm did you cultivate any of it yourself, or have any of it cultivated, if so what went with the product?

A.-- I looked after the cultivation of the garden and watched over the hands to see that they worked in his absence, and when I would say anything to the hands they would frequently tell me that T.C. McDowell had said to them to pay no attention to me as I was an old childish woman, and this seemed to give them license to mistreat me. The products of the farm usually went away from it to meet his other obligations.

Q.11.-- At the time of the conveyance of this tract of land to T.C. McDowell, did he pay you or your husband anything at all for it?

A.-- No.

Q.12.-- What do you think would be the reasonable cost of your support and maintainance in accordance with your age and condition in life, each year?

A.-- I cannot answer this question with any definite certainty. Sometimes I am able to do right smart myself, sometimes I have spells that I am help^{less} and have to be waited on entirely. I know it would be a heap.

Obj.-- The foregoing question and answer thereto is excepted to unless, or until the enquiry is confined to the time that defendant remained on the farm at the old homestead, or to such time as she shall return and remain there for her support and maintainance.

Orr & Noel attys.

Q.13.-- Please state why you left the old homestead and went some place else to live?

A.-- I was not supported as I should have been, and I did not feel

safe there on account of threats that had been made.

Q.14.-- You may now state whether T.C.McDowell and his wife were agreeable to you and treated you kindly or otherwise?

A.--I think his wife was a very clever woman for her ^{chance} sense. I could get along with her much better than with my son T.C. McDowell. At times my son when I would talk to him and try to get him to stay with me and support me he would get very angry and talk very rough and insulting to me, and at one time he said "I'll kill somebody that is what I'll do".

Q.15.-- At the time you got ready to leave, did T.C.McDowell or his wife, insist on your staying, or did either one of them ever order or invite you to leave?

A.-- When I was getting ready to go, I was sick and they said something to me about staying until I got better. On Christmas ~~he~~ had a fuss with my son Ervine and drew his pistol on him. I went in the room and sat down and said that it seemed that I could not stay there in any peace, and his wife said to me "I'd leave, I wouldn't stay here and be in a racket all the time." At several times when I would talk with T.C.McDowell and ask him to stay there with me and to look after that fine farm, he would often get mad and tell me that if I didn't like his way to go to some of the other children and stay.

Q.16.-- Has T.C.McDowell lived there at the home place all the time since the death of your husband, or has he lived somewhere else?

A.-- He did not stay there very much, except when he needed something some way. He moved himself and family to the Poor Valley and lived there where he was working in timber and tan-bark for about two years and left me there an old woman by myself, with out a horse to go to mill on or a cow to give me any milk.

Q.17.-- You have spoken above of cooking ^{for} your son T.C.McDowell, ~~XXXXXXXXXXXXXXXXXXXX~~. I want to ask you if it is not a fact that you furnished out of your means, bought at the store and cooked provisions for the use of him and his hands, and for which he never accounted to you. State all about it.

Obj.-- Excepted to because no time is fixed and it is inadmissable.

Orr & Noel, Attys.

A.--I did purchase groceries and things for the table for the use of him and his hands. Francis Blair, a woman and a little girl by the name of Mulwee, staid there and ~~xxx~~ helped do the cooking, ^{part of the time} but I paid them principally for their work.

Cross Examination.

X.Q.1.-- At what time do you state that your son T.C.McDowell left the home place and went to Poor Valley?

A.-- About two years ago last March.

X.Q.2.-- At what time did your son Ervine come and live with you at your home place?

A.--I cannot recollect how long ago, but he come years before T.C. went to Poor Valley.

X.Q.3.-- When your son Clint, known as T.C.McDowell, went to the Poor Valley who did he leave on the place, and with whom did you reside until his return?

A.-- My son was there in the house with me at that time, that is my son Ervin, and Clint Williams was living in a little house on the place. Ervine was there some of the time and some of the time he was away helping Clint. Ervine had no family at that time. He married last March a year ago. Before that time there was no person to stay with me while Ervine was out at work. In June after he left Ervine hunted up a girl and brought her there and she staid until September or October. I paid her some and Clint paid her some. Clint was to furnish somebody to stay with us

X.Q.4.-- When did Clint move back to the old place.

A.-- I reckon it was last March. He told me he was coming in March

X.Q.5.-- When did you leave and where did you go to, and with whom do you now reside?

A.-- I left last Spring. I went to live with ~~My~~ son Ervin near Towells Ford.

X.Q.6.-- You state in your examination in chief that you paid

your own doctor bills. Who were the physicians that attended you?

A.-- Dr. W.N.McNiel and Dr. W.L.Spencer.

X.Q.7.-- Do you know by what arrangement between your son Ervin and Clint, Ervin came and lived on the place?

A.-- I think Ervin first hired to Clint, and after that he rented.

X.Q.8.-- Did Ervin cultivate part of the farm after he rented?

A.-- He did.

X.Q.9.-- Is it not a fact that after your son Clint moved to the Poor Valley, that he made arrangements with the merchants in the neighborhood for you and Ervine to get such necessary things as you might need for your support and maintainance, did you not get such things and did he not pay for them?

A.--I never heard of that before. If I went to Clint's store and got things I paid him for them

X.Q.10.-- Is it not a fact that while he was in the Poor Valley, that you sent to other stores and got necessary things to live upon that you never paid for, and that he in fact paid for them.

A.-- That is not the fact. If I got anything and didn't pay for it I had it charged to myself.

X.Q.11.-- Did you not get merchandise at Wright Stickley's store and at Rufus Kings' and Patton Marsee's that you did not pay for and that were charged to Clint and that he paid for?

A.-- I don't know what it was if it was. I don't remember as much as a nickles worth. I generally paid for the things as I got them and if I did not, I paid it as qickly as I could.

X.Q.12.-- How did you pay Mr. Stickley for what was gotten there?

A.-- Sometimes I paid the money and sometimes it was with chickens, eggs &c. that I could raise.

X.Q.13.-- Were these chickens eggs &c. raised and produced on the farm?

A.-- I raised them there on the farm, but nothing of Clint's went to raise them.

X.Q.14.--I believe you stated in your examination in chief

that you bought your own clothing. How did you pay for it?

A.-- Just by the little shifts that I could make. There was nobody else to get them. I generally raised some vegetables, chickens and Eggs &c. and what his, Clint's, hands didn't consume, I would use to buy my things with.

X.Q.15.-- You stated that Clint left you no horse to mill on. Who did your milling?

A.-- Sometimes one boy and then another. Ervin did it while he was there, or had it done, and at other times I would get somebody myself.

X.Q.16.-- I believe you have stated that Clint moved back about last March. How soon after he moved back did you leave and go to your son Ervin's.

A.-- It might have been about one month.

X.Q.17.-- Is it not a fact that Clint, a few weeks before you left, told you that if you so desired he would furnish you a room in which to live to yourself and would furnish you a girl to wait on you?

A.-- He said so, but I never heard anything more about. When he came he seemed to be in a bad humor and moved my plunder around in a very abrupt manner.

X.Q.18.-- Did you at that time tell ^{him} ~~it~~ that it would be all right or decline the offer.

A.-- I don't remember whether I said anything or not, he had promised so much and didn't comply with it.

X.Q.19.-- Who suggested, or persuaded you to leave and go and live with your son Ervine?

A.-- Nobody ask ^{me} to go.

X.Q.20.-- Did not Clint and his wife both tell you that you had better stay where you were and insist on your doing so?

A.-- I never heard it if they did. I was sick and they said I had better stay till I got better, that is all I heard.

X.Q.21.-- You did go then of your own accord did you not?

A.-- I would rather have staid at home, if I could have lived

there and had any pleasure. I would not have exchanged it for anybody's home. I thought I was driven away by not being provided for. I went of my own accord, as a matter of choice because I thought I was driven away. I would rather have staid at home if I thought I could.

X.Q.22.-- Did you not, a short time before you left, ask Wright Stickley and Fred Stickley, there about Wright Stickleys' store, if you could not go and live with Ervin and make Clint support and maintain you there, or words to that effect?

A.-- I don't remember it.

X.Q.23.-- Did not Clint's wife treat you kindly while you were living there?

A.-- I could get along better with her than I could with Clint. She is a right good woman to her chance.

X.Q.24.-- You said something about the hands not working well. Whose hands were they and in what were they engaged?

A.-- They were Clint's. They were engaged in farm work. And we boarded some of his hands that were at work in the timber for Clint.

X.Q.25.-- Who were these hands. Give their names?

A.-- Clint Williams, Pat Hounshell, Bob Reese, George Cheek, the Johnnigan boys. There may have been others whose names I do not now remember.

X.Q.26.-- You have stated that you paid Francis Blair who staid there and helped do the cooking part of the time, principally, yourself. How did you pay her?

A.-- A part of it was some clothing and things that I had there about the house that I paid for. I got her some things at the store and paid for them. She got a dress at Stickley's and I don't know that that is paid for yet. There was something behind when she left and she came back for that and I sent her to Clint, thinking that he ought to pay it as she was there cooking for Clint's hands. I did, however, pay a part of this balance.

Re-Examination.

Q.-- During all the time that you and Clint lived together at

the old home since your husband's death, how many times has he given or furnished you money or checks to buy yourself clothing, or pay medical bills or for any other purpose?

A.-- If he ever gave me any ^{money}, I don't remember it. He had more to foot up for himself than he could meet as I understood it from what I could hear around. I think he gave me two checks, but they were not good and I could get nothing out of them. Afterwards when he offered me checks I refused them because I did not think they would be any account.

Q.-- Were those checks drawn in his own name or in some other person's?

A.-- It was in his own name.

X.Q. Did he ever give you a check purporting to be signed by F. S. Bennett?

A.-- He did.

Q.-- Please file that check as a part of your deposition marked "A".

A.-- I have filed same marked as requested.

Q.-- Did you ever make any inquiries as to whether that check was genuine, or not, if so what?

Obj.-- Objected to because no ~~xxxxxxx~~ statement is made as to to whom it was presented ^{to} or of whom inquiry was made.

Orr & Noel, Atty.

A.-- I took it to Mr. Wright Stickley and asked him to cash it and he said it was not good.

Obj.-- Objected ^{to} because irrelevant, immaterial and inadmissible as to what Mr. Stickley should have said.

Orr & Noel, attys.

Q.-- Who was Mr. Stickley, how close did he live to you and what was he engaged in?

A.-- Mr. Wright Stickley, he lives about one-fourth of a mile from my home, and he is a merchant.

Q.-- Please state what that check was given to you for, if you remember?

A.-- For corn that my husband willed to me.

Re-Cross Examination.

Q.-- Who got the torn spoken of?

A.-- Mr. Bennett.

Q.-- Did you ever present this check to Powells Valley Bank for payment?

A.-- I did not.

Q.-- Is it not a fact that your son Clint gave you checks on different occasions and for different sums that were collected by you either at Powells Valley Bank or cashed somewhere else?

A.-- I don't remember any.

And further this deponent saith not.

Susan McDowell
mark

The further taking of these depositions is adjourned to Friday December the 2nd, 1904, at the office of C.T.Duncan in the town of Jonesville, Va.

Geo P. Cridlin N.P.

Met pursuant to adjournment at the officice of C.T.Duncan, Dec. 2nd, 1904,

Present C.T.Duncan and M.G.Ely for plaintiffs,

James W.Orr attorney for defendant.

Wright Stickley another witness of lawful, introduced by the plaintiff, being duly sworn deposes as follows:

Q.1.-- Please state your age, occupation and place of residence.

A.-- I am 58 years old, am a merchant and reside at White Shoals, Lee County, Virginia.

Q.2.-- Are you acquainted with Susan McDowell and T.C.McDowell, and how long have you known them, and how far do you live from the old John McDowell home place where Clint McDowell now resides?

A.-- I do know said parties, have known them for thirty years, and live about one-half mile form the old John McDowell home place.

Q.3.-- After the death of John McDowell, the husband of the plaintiff and the father of the defendant, state as nearly as you can

what he followed and where he lived?

A.-- He lived at the old home place and farmed, traded some in stock, up until probably two years ago when he was from home on the railroad logging for about two years.

Q.4.-- When he left the old place and went to the railroad in the logging business, state who was left at the old place, if anybody?

A.-- His mother was left there, and cannot tell whether anybody else was left there or not. Ervin come there some times afterwards but I don't remember whether he was there at the time Clint left or not.

Q.5.-- State whether or not Mrs. McDowell traded in your store, kept an account with you, if so please state as nearly as you can the amount of business she did with you, by whom and how you were paid for the same, if paid at all?

A.--² She did trade with me in my store and ran a small account. Her account probably would be \$8.00 to \$10.00 per year. It was principally all paid in produce, such as chickens, eggs, potatoes, bacon &c. She paid the accounts herself.

Q.6.-- Were these yearly purchases made by her for necessities, or otherwise?

A.-- It was for medicines and clothing principally.

Q.7.-- I now show you what purports to be a check on the Powell's Valley Bank dated August 24th 1895, ~~xxxxxxxxxx~~ which check is filed with the deposition of Susan McDowell, and I will ask you to state if you are acquainted with the handwriting of F.S. Bennett, and state anything you may know about said check?

Obj.-- Objected to because irrelevant and immaterial.

James W. Orr, for deft.

A.-- I don't remember anything about the check at all. It was issued nearly ten years ago. At one time I did know Bennett's Handwriting, I did a great deal of business with him. I do not take this check to be in his handwriting because the name is spelled "Benit" and Mr. Bennett did not spell his name that way, but I do not remember exactly how he did spell it, whether there was a "tt" in it or not.

Q.8.-- State if you know in whose handwriting this check is?

Obj. Objected to for same reasons stated above. J.W. Orr for deft.

A.-- I have no idea in the world whose handwriting it is.

Q.9.-- Knowing Mrs. McDowell as well as you do, what would be the reasonable value of her support and maintainance in ~~xxx~~ accordance with her age and station in life, each year?

Obj.-- Objected to unless the enquiry is confined to the time or the fact of the plaintiff remaining on the farm and being there supported and maintained.

James W. Orr, for deft.

A.-- I suppose about \$100.00 per year, though I am not a judge of such matters.

Cross Examination.

X.Q.1.-- Did T.C.McDowell run an account at your store from about March or April, 1902, and if so, what kind of goods were generally purchased on his account?

A.-- He did. He purchased general merchandise, such as is used on a farm and for family use.

X.Q.2.-- Where were those goods used or taken to?

A.-- They were taken home to the old place.

X.Q.3.-- Did he run an account at your store before this date, and after the death of his father John McDowell, and if so what kind of goods were purchased and charged to him?

A.-- He did run such an account. He purchased such goods as is generally used in a family and in paying hands for labor.

X.Q.4.-- Were these accounts paid by T.C.McDowell?

A.-- They were.

X.Q.5.-- Did J.E.McDowell run an account at your store after T.C. McDowell went to the railroad~~x~~ or did he obtain goods at your store during that time, and if so to whom were those goods charged~~x~~ and who paid for the same?

A.-- My recollection is that he run an account for himself, and such things as were necessary for the home where Mrs. McDowell lived were charged to T.C.McDowell and paid for by him.

X.Q.6.-- Did J.E.McDowell pay the account that was charged to him?

A.-- Yes. It was a small account as I now remember.

X.Q.6.-- You stated that Mrs. McDowell run a small account of \$8.00 to \$10.00 per year and paid the same in produce such as

chickens, eggs, potatoes, bacon &c. Was not this produce the product of the farm or place where she lived?

A.-- I presume it was.

X.Q.7.-- From your observation, please state whether or not, in your opinion Mrs. McDowell was reasonably supported and maintained while she remained on the farm where her husband died?

A.-- I considered it so.

Re-Examination.

Q.-- Who did the cooking and housekeeping &c. at the old home place while Clint and his mother lived together and up to the time he left there two years ago?

A.-- They usually, as I now remember, had some hired girl there.

Q.-- Did Mrs. McDowell do anything in regard to the housekeeping, cooking, gardening &c.?

A.-- It was always considered that she worked all the time. She is considered a very industrious woman and will work no matter where she is.

Q.-- You state above ^{that} Mrs. McDowell from the death of her husband up to the time she left the old place, had a comfortable support and maintainance. Please state who furnished to her that comfortable support and maintainance, whether or not she did not make it herself, or contribute very largely thereto?

A.-- It was made there on the farm such as she ate, and she worked and made stuff to buy such things as she needed. I suppose she did contribute to her support and maintainance to some extent.

Q.-- While T.C. McDowell was away from there, did you receive a letter from him, in which he directed you to furnish nothing else to his mother or to Ervin who was on the farm, or in regard to said farm and the expenses of running it, or anything of that kind?

Preliminary Question by Judge Orr for deft. -- Have you that letter? ~~xxxxxxx~~

A.-- No sir.

The foregoing question and any answer thereto is objected to unless the letter is produced or properly accounted for

James W. Orr. for deft.

Ans. to plaintiff's question above: No sir. J.E. McDowell was in

the habit of giving order to hands for labor on the farm signed T.C.McDowell by J.E.McDowell. Clint either told me or wrote to me to not pay off any more such orders as his account was running up and he was afraid Ervin was not careful enough, but to let them have such things as were necessary for the family.

And further this deponent saith not.

Wit claims / da. 50

Wright Sue Kley

W.N.McNiel, another witness of lawful age, being duly sworn deposes as follows,

Q.1.-- State your age, residence and occupation.

A.-- I am 68 years old, reside at Longfield, Va. and am a physician.

Q.2.-- Are you acquainted with Susan McDowell, widow of Jon McDowell, deceased?

A.-- Yes sir.

Q.3.-- State whether or not, since 1895, the time of John McDowell's death you have been called upon to treat, as a physician, Mrs. McDowell, and if so, please state as nearly as you can the amount of her medical bill each year, and who paid them to you?

A.-- I was called to attend Mrs. McDowell, as physician. I can't say just what it amounted to each year. It has not been very large not more than \$15.00 to \$20.00, in fact the amount is merely guess work with me. My recollection is that she paid me herself.

Q.4.-- Did T.C.McDowell ever pay you anything for her?

A.-- I don't recollect whether he ever did. My recollection is that she paid me for attention to her.

Q.5.-- Please state what it would be worth per year to furnish Mrs. McDowell a comfortable support and maintainance suited to her age and condition in life, including board, clothing of all kinds, medical and other necessary attentions?

~~Obj.~~ Objected to unless the enquiry is confined to the fact of the plaintiff remaining on the farm at the old place.

James W. Orr for deft.

A.-- I suppose it would range from \$100.00 to \$200.00.

Q.6.-- Would the same kind and quality of support and maintainance

cost any less at the old home place than at any other place in the neighborhood?

Abj.-- Objected to unless the enquiry is confined to the defendant's support and maintainance as inadmissible.

James W. Orr, for deft.

A.--I don't ~~no~~ know how that would be. The value of it would be the same, some men might charge more than others.

Cross Examination.

X.Q.1.-- If the support and maintainance was furnished by T.C. McDowell and he being the owner of the home place, could he not furnish it cheaper at the home place than somewhere else?

A.--I think he could.

X.Q.2.-- ~~X~~Do you know where the pay came from that Mrs. McDowell paid to you for medical attention or from what source it was derived?

A.-- No.

X.Q.3.-- Were you frequently about Mrs. McDowell's while she lived at the home place and after the death of her husband, and if so what was your observation in regard to her ~~XXXXXX~~ treatment and support and maintainance at that place?

A.-- I frequently stopped there. So far as her treatment was concerned, I never observed anything wrong myself. She acted like a person at home, and seemed to have plenty to eat and to wear. Her appearance was pretty much the same as it was during Mr. McDowell's life time.

And further this deponent saith not.

Writ Clarins 1 day 50¢

W. N. McNeil

J.F. Jones another witness of lawful age being duly sworn, deposes as follows:

Q.1.-- State your age, residence and occupation.

A.-- I am 45 years, reside near Ann, Va. and am a farmer.

Q.2.-- Were you acquainted with John McDowell, deceased, his wife Susan McDowell and T.C. McDowell, if so how long have you known them?

A.-- I am acquainted with all of said parties. I have known them since the year 1888.

Q.3.-- What relation if any, did you bear to Mrs. and Mr. McDowell?

A.-- Son-in-law.

Q.4.-- Where were you living at the time John McDowell died?

A.-- I was living in the house with them. I left there in June or July after Mr. McDowell's death which occurred in February, 1895. I moved on the west end of the place which I had bought off from Mr. McDowell. I lived there till my wife died in 1901.

Q.5.-- How far was this house from the old home place of Mr. and Mrs. McDowell?

A.-- About one-half mile.

Q.6.-- Were you about the old home place frequently?

A.-- Yes I was there often, backwards and forwards through the place, not out ^{of} the house so frequently.

Q.7.-- Who lived at and occupied the home dwelling house of Mr. and Mrs. McDowell from the time of his death up to the time you moved away from there in 1901?

A.-- Mrs. McDowell and Clint made it his home as one of the family.

Q.8.-- Was Clint married when his father died, and if not state when he did marry?

A.-- He was not married when his father died, and married about four years thereafter, as well as I now remember.

Q.9.-- State who did the housekeeping, cooking and so forth for that family up to the time T.C. McDowell married?

A.-- ^{Mrs. McDowell} ~~she~~ did with some hired help.

Q.10.-- State anything you may know about the energy and industry of Mrs. McDowell?

A.-- Her industry was very good so far as looking after things in the house and the garden. She always did that while I was there and after I left there. She used industry all the time, more than she really ought to, owing to her age.

Q.11.-- What was Clint doing during these years?

A.-- He was engaged in various things, some pole work and some log work, and he managed the farm I reckon as well as he could and do his other business. He was away from home something like half the time. Man in timber work has to be away from home more or less. He kept some renters on the place.

Q.12.-- State as nearly as you can the amount of property that

Mrs. McDowell had after the death of her husband~~x~~ and what it included?

Obj.-- Excepted to because irrelevant and immaterial.

James W. Orr, for deft.

A.-- As I remember there was a wagon and team, and some cattle, five or six steers, some heifers, do not remember the number, household and kitchen furniture; farming utensils, a very good supply, but I think the farming utensils were left to Clint. I do not know personally the value of this property.

Q.13.-- You were appointed administrator of the estate of John McDowell were you not?

A.-- Yes sir.

Q.14.-- As such administrator did you turn over any money to Mrs. McDowell, if so how much as nearly as you can remember?

Obj.-- Excepted to for the same reason above stated.

James W. Orr, for deft.

A.-- I turned over to her fifty dollars, and paid for her a security debt of \$55.00. She was surety for her son J.E. McDowell.

Q.15.-- From your knowledge and observation of the manner in which Mrs. McDowell and T.C. McDowell lived after the death of John McDowell, did he support her or did she support him?

A.-- She was a great deal of aid in supply the necessities of life in the house and looking after poultry and produce and things like that. She was about the principal support of the family as I looked at. Somebody had to stay there to look after the garden and things, and she did that. She did enough to support herself and more to. She had a great deal to contend with, more than she should have had, and her burdens were more than she should have had.

Q.16.-- What do you think would be the reasonable value of a comfortable support and maintenance suited to the conditions and age of Mrs. McDowell, each year?

Obj.-- Objected to unless confined to the time and the fact of her remaining on the farm and on the home place.

James W. Orr, for deft.

A.-- I guess \$100.00 might furnish her. I am just guessing at it I may be off. It could be more or less. It would be more by justice.

Q.17.-- Do you know who furnished to Mrs. McDowell, her clothing

food stuff, medical bills &c. if so state?

A.-- I do not know who furnish these things. I gave some clothing, a dress or two and some flour. She seemed to be scarce of these things and needed them and she had staid there while my wife was sick, and I gave her these things.

Cross Examination.

X.Q.1.-- You speak of the property that was on the place after the death of Mr. McDowell. Do you know who that property belonged to?

A.-- It was hers from what I could learn.

X.Q.2.-- Was it all hers?

A.-- I think so, that was my understanding of the matter.

X.Q.3.-- Do you mean that all and every kind of property there on the place belonged to her?

A.-- No I do not. There were some sheep there that I do not know who they belonged to, and also some hogs. The cattle belonged to Mrs. McDowell. I think the farming impliments were left to Clint.

X.Q.4.-- You speak of her work about the premises, and about her being industrious and energetic. Did her work seem to be voluntary upon her part or not.

A.-- Not altogether, I think.

X.Q.5.-- I believe you state there was a hired girl there part of the time, did she not help to do the work about the house and premises?

A.-- They had one a good part of the time. And she helped what they could get out of her.

X.Q.6.-- Was she lazy and trifling, or were you there all the time to see how that was?

A.-- I am judging from the general run of them. I was not there all the time to see how that was.

X.Q.7.-- Has Mrs. McDowell been a lady reasonably hearty and strong since the death of her husband, or how has that been?

A.-- Her health was not good at all times, but was reasonably good for a woman of her age, One could not expect a woman to be stout who has been through what she has been through.

W.T. 1 da 50 X.Q.8.-- Did you not buy some fruit there that was raised in the
~~the~~ ^{the} orchard on the premises, and did you not pay Mrs. McDowell for it?

A.-- I don't remember anything about it, if I did it. I might have done it.

and further depout said not.

J. H. Jarvis

F.R.Stickley another witness of lawful age being duly sworn, deposes as follows:

Q.1.-- Please state your age, occupation and place of residence.

A.-- I am 50 years old, am a farmer and reside at White Shoals, Va.

Q.2.-- Are you acquainted with Susan McDowell and T.C.McDowell, and how long have you known them.

A.-- I am acquainted with said parties, have known them some 12 years. I have known Mrs. McDowell for 25 years.

Q.3.-- At the time of the death of John McDowell, and since that time, how close have you lived to where Mr. McDowell lived and where his wife has since lived?

A.-- About $\frac{1}{4}$ mile.

Q.4.-- State who lived at the old home place after the death of Mr.McDowell, How long they lived there and who lives there now?

A.-- Mrs. McDowell and Clint together lived there up to the time that Mrs. McDowell left, some six or eight months ago.

Q.5.-- During any part of that time did Clint move away from there, and if so how long did he stay away and where did he go to?

A.-- He did move away in that time to the Poor Valley, said about two years as I recollect.

Q.6.-- During the time they lived there together and after Clint moved away, Who supported Mrs. McDowell, if you know, and in this connection please tell what Mrs. McDowell did?

A.-- I don't consider that Mrs. McDowell supported herself entirely nor that Clint supported her entirely, It was kind of a mutual thing. I mean by that that she worked and used a good deal of industry as much as her strength and age would admit, working in the garden and the house work. I don't say she did all the house work, but a good deal of it, as much as she was able to do when she was able to work at all.

Q.7.-- During any part of this time state whether or not T.C.McDowell, had several hands working for him, and if so, where they boarded, who cooked for them &c.

A.-- Yes he had hands employed, I think, the greater part of the time, but it seems to me that most of them lived on the place. I don't remember of his having any hands there while he was in the Poor Valley, but there may have been. I don't remember whether

any of the hands boarded there or not, they ~~xxxx~~ may have done so.

Q.8.-- Knowing Mrs. McDowell, as you do, what would be the reasonable value of a comfortable support and maintainance for her in accordance with her condition in life, considering her age, each year?

Obj.-- Objected to unless confined to her support and maintainance on the place, as inadmissible.

J.W.Orr, for deft.

A.-- I would not do it for less than \$150.00 per year. I'll just answer \$125.00 per year.

Cross Examination.

X.Q.1.-- By your last answer. Do you mean on or off the home place?

A.-- I had in my mind at the time I answered the question that it would be off the place.

X.Q.2.-- If you owned the farm and she was entitled to her support and maintainance off of the farm and from you what do you think it would be reasonably worth to support and maintain her on the farm?

A.-- If I had her to support, I don't think it would make much difference whether it was on or off the farm.

X.Q.3.-- Then ~~xxx~~ do you think, with the buildings and improvements already there on the farm, and a place already prepared where she could stay, and with the conveniences and surrounding circumstances, it would be worth as much to support her there as it would be to rent a room or some place somewhere else, and support her at some other place?

A.-- If I were in Clint's place I would rather support her there on the place. It would be more convenient than to support her somewhere else and go backwards and forwards and rent a room somewhere else.

X.Q.4.-- While T.C.McDowell lived in the Poor Valley who lived at the home place with Mrs. McDowell?

A.-- Ervine, or J.E.McDowell, lived there.

X.Q.5.-- After Joh McDowell's death, is it not a fact that there was a hired girl kept on the place most of the time, or how was that?

A.-- There was a hired girl kept there part of the time, I don't

know whether ~~xxxxxxxxxxxx~~ phone was kept there most of the time or not.

X.Q.6.-- Please state whether or not, ~~for~~ your knowledge and observation, Mrs. McDowell has fared reasonably well as to her living since the death of her husband John McDowell, and while she remained on the place?

A.-- I just don't know about that. From my knowledge and observation I think she has had plenty to eat there. About her financial matters I know nothing about that. I have been there frequently and have eaten there and she seemed to have plenty to eat.

Re-Examination.

Q.-- You stated that after T.C.McDowell moved to the Poor Valley that J.E.McDowell lived on the place, and his mother with him, or that he lived with her. Do you know under what contract J.E.McDowell lived on said land or whether or not he supported his mother?

A.-- I know nothing about the contract, and do not know whether he supported his mother.

Q.p- You spoke of a hired girl being kept there a part of the time. Do you know who paid the hired girl?

A.-- I do not.

Q.-- You also stated that Mrs. McDowell seemed to have plenty to eat. Did she also seem to have cloths that were suited to her condition in life?

A.-- I did not hear of any complaint in that respect.

Q.-- Do you know who made the support or vituals that she was living on or the cloths that she was wearing?

A.-- I do not.

Q.-- While it is a fact that she may have had plenty to eat and to wear, is it not likewise a fact that she had too much work to do in cooking taking care of the house, gardening &c. for a woman of her age?

A.-- She did do a good deal of work considering a woman of her age. I think she did enough work to pay for what she eat and the cloths that she wore.

Q.-- Do you know whether T.C.McDowell was kind to his mother and at all times treated her with the kindness, respect and consideration that was due to her?

A.-- I do not know.

~~Re-Examination~~
Re-Cross-Examination.

Q.-- Do you know whether or not T.C.McDowell paid to J.E.McDowell anything for his staying there and taking care of Mrs. McDowell while they were there?

A.-- I do not.

Q.-- Do you know whether or not the work done by Mrs. McDowell on the premises was voluntary or of her own choice, or how that was.

A.-- I don't know how it was.

Q.-- Did you ever hear Mrs. McDowell complain of any unkindness or mistreatment from T.C.McDowell towards her while she lived there?

A.-- I don't remember of anything.

And further this deponent saith not.

Wit. Claim 1 day 50x

J R Steukley

The further taking of these depositions is adjourned till tomorrow at 12 M. at the same place.

This the 2nd, day of December, 1904.

Geo P. Cridder N.P.

Met pursuant to adjournment.

Lurley Mulwee another witness of lawful age being duly sworn deposes as follows:

Q.1.-- State your age and place of residence?

A.-- I am 19 years old, Live with Dr. McNiel at Longfield, Lee County, Va.

Q.2.-- Do you know susan McDowell and her son T.C.McDowell, if so how long have you known them?

A.-- I do know them, have known them about ten years.

Q.3.-- Please statex if you ever lived with Mrs. McDowell and how long?

A.-- I did live three years.

Q.4.-- State if if you lived with her between the time when Mr. McDowell died and when T.C.McDowell married?

A.-- I did.

Q.5.-- During the time you lived there who supported the family?

A.-- I don't know unless it was Mrs. McDowell, she supported me.

Q.6.-- Did T.C.McDowell furnish anything for the use of the family while you lived there, and if you say he did tell as nearly as you can remember what he did furnish?

A.-- I remember once he brought some flour. I do not remember the amount. Of course I was too young to know.

Q.7.-- Who furnished the sugar, coffee &c. that was used in the family?

A.-- Mrs. McDowell.

Q.8.-- State whether or not Clint made that his home and if so state whether or not he was there all or much of the time?

A.-- He did make that his home. He was not there all the time. He might have been there half the time I think.

Q.9.-- Who did the cooking, washing and family work there during the time you staid there?

A.-- Mrs. McDowell and myself did the work. Sometimes she had some one else to do the washing.

Q.10.--How old were you when you went to live with Mrs. McDowell?

A. I was twelve years old.

Q.11.-- How did you live there, were you hired or as one of the family?

A.-- As one of the family.

Q.12.-- Who furnished you your clothing and other things that you got while you staid there?

A.-- Mrs. McDowell.

Q.13.-- State whether or not, while you lived there, Clint was kind to his mother, or otherwise?

A.-- He was not very kind to her sometimes.

Q.14.-- State whether or not any garden was cultivated and vegetables raised while you staid there, and if so who did it?

A.-- There was a garden cultivated. Mrs. McDowell ^{and I} did part of the work, all but the plowing.

Q.15.-- State whether or not the garden was a large or a small one, and whether you raised much vegetables?

A.-- It was a tolerably large garden, and we raised a good many vegetables. We raised potatoes, cabbage, onions, beans, melons, beets &c.

Q.16.-- During the time you lived there, state whether or not Clint ever furnished his mother, or you any clothing of any kind?

A.-- He never furnished me any, and I don't think he furnished his mother any.

Q.17.-- Did you ever at any time hear Mrs. McDowell ask him to buy her anything to wear, shoes or anything else?

A.-- I did hear her ask him for a pair of shoes. He did not buy them, and told ^{he} he had forgotten it.

Q.18.-- State whether or not Mrs. McDowell raised any chickens, had eggs &c.?

A.-- She did. She raised several chickens.

Q.19.-- During the time you staid there, state whether or not Clint ever hauled off any of the things raised by Mrs. McDowell in the garden, or any of her chickens, or anything of that kind and if you say he did state what?

A.-- He did take some chickens and some dried beans, and some fruit that she had dried.

Q.20.-- State whether or not Mrs. McDowell was willing for him to haul these things off?

A.-- She was not very willing.

Cross Examination.

X.Q.1.-- How old do you say you were when you went there to live?

A.-- Twelve years old.

X.Q.2.-- In what year were you born?

A.-- I can't tell you.

X.Q.3.-- Do you know what year it was that you went there?

A.-- I could not tell.

X.Q.4.-- I believe you stated a while ago, in speaking of the flour that Clint brought there that you was too young to remember much about it or words to that effect. Was that correct?

A.-- Yes sir.

X.Q.5.-- Is it not a fact that you were too young to remember much of what occurred while you were there?

A.-- I remember what I have told, that is about all I remember.

X.Q.6.-- Is it not a fact that a good many things may have occurred that you do not remember?

A.-- I guess there was, but of course I can't know.

X.Q.7.-- Do you remember going to Mr. Wringt Stickley's store and getting coffee, sugar and such necessary articles for the support of the family?

A.-- Yes, sometimes I went.

X.Q.8.-- Do you know who these goods were charged to and who paid for them?

A.-- I always took eggs or chickens and paid for them.

X.Q.9.-- Were these eggs and chickens and such things as were used at the store to pay for goods, produced on the farm?

A.-- Yes sir.

X.Q.10.-- Did not Mrs. McDowell sell considerable produce off of the farm, such as potatoes, beans, onions and other vegetables, and chickens and eggs?

A.-- She did.

X.Q.11.-- Did she some times sell fruit?

A.-- I don't remember her selling any, but do remember of Clint selling some.

X.Q.12.-- Who was living on the farm as renters while you staid there?

A.-- There was one family named Hayes, another man lived there by the name of Webb, I reckon he lived on the place, and a man by the name of Jonnigan.

X.Q.13.-- Was not Clint engaged in logging, or some kind of business while you lived there that made it necessary for him to be away a considerable portion of the time?

A.-- Sometimes he was engaged in logging.

X.Q.14.-- How did you and Mrs. McDowell and the balance of the family, fare in reference to something to eat and to wear and to live upon while you were there?

A.-- We had enough to eat, but not very much to wear.

X.Q.15.-- Did you have enough to make you comfortable, and comfortable quarters to stay in, beds and so on?

A.-- Yes.

X.Q.16.-- Did you know of Mrs. McDowell selling any produce off of the place either to the chicken peddlars or anybody else and getting the money for it?

A.-- I don't know of her selling any for money. I knew of her letting a girl have some for staying there.

X.Q.17.-- Do you know whether or not the clothing and such things as you got were charged to and paid by Clint?

A.-- Everything I went to get I always took eggs, butter or something to pay for it.

X.Q.18.-- What did you take money or produce off of the farm?

A.-- Took produce, never got any money.

Re-Examination

Q.-- You state in answer to question on cross-examination that Mrs. McDowell sold produce off of the farm such as potatoes, beans onions and other vegetables. Were these such as she raised herself in the garden or did they come from somewhere else?

A.-- Some come from the garden and some from the farm. I don't think any fruit came from the garden.

Q.-- Who got and furnished the wood for your use?

A.-- Clint furnished the wood, what was furnished. Some of the time we had to get boards and shingles and things to burn.

And further this deponent saith not.

Wit claim 1 da. 50c. Lurela M. M. M. M.

Mrs. Ellen McDowell another witness of lawful age being duly sworn deposes as follows:

Q.1.-- Please state your age and place of residence?

A.-- I am 25 years old, reside near Towell, Lee County, Va.

Q.2.-- If you are related to Mrs. Susan McDowell and T.C. McDowell, please state what the relationship is?

A.-- I am a daughter-in-law to Mrs. McDowell and a sister-in-law to T.C. McDowell.

Q.3.-- State whether or not you ever lived with Mrs. McDowell and if so when?

A.-- I did. I staid there five month during the year 1902.

Q.4.-- How did you stay?

A.-- As a hired girl. I got 75c per week for staying.

Q.5.-- Who paid you for your services?

A.-- A part, about \$12.00 was paid me in Kings Store and charged to T.C. McDowell, the balance of \$2.25 was paid me by Mrs. McDowell in cash.

Q.6.-- During the time you staid there, did Clint McDowell furnish anything for the use of the family, if so what?

A.-- Sometimes he would send some meal or flour, a small amount at a time.

Q.7.-- Did he during that time furnish his mother with any clothing?

A.-- Not that I know of.

Q.8.-- Who furnish the sugar and coffee for the family.

A.-- She sold stuff and furnished the sugar and coffee. Then Clint furnished sugar for her to make apple butter out of for herself, and she was to make applebutter for his family and hands. She made about six gallons for herself, and as much as twelve if not more for Clint.

Q.9.-- After leaving Mrs. McDowell's in November, 1902, how long was it till you were married to J.E. McDowell?

A.-- I was married in March 1903.

Q.10.-- Then did you go back there to live, if so how long did you live there?

A.-- I did go back there and lived there till March 1904.

Q.11.-- During the time you lived there from March 1903 to March 1904, state whether or not T.C. McDowell furnished to his mother anything in way of support, either clothing or provisions?

A.-- He did not furnish any clothing. All the provisions I remember of Clint furnishing was that we got some meal from him, but I don't suppose you would call that furnishing because he had taken off my husband's corn and had promised to pay it back. Mrs. McDowell furnished her own meat and raised her own vegetables.

Q.12.-- Did T.C. McDowell pay you anything for any services rendered to his mother from March 1903 to March 1904, if so how much?

A.-- He did not.

Q.13.-- State whether or not Clint, during the time you staid with Mrs. McDowell, came to see her frequently, or not?

A.-- No. He seldom ever come without other business. I remember one time when he came and Mrs. McDowell was very sick, he left saying he would return the next day. That was in January, ¹⁹⁰⁴ and he never came back until the following March and she was sick during all that time.

Q.14.-- Who waited on and cared for Mrs. McDowell during that spell of sickness?

A.--My husband and myself.

Q.15.-- State what is the condition of Mrs. McDowell's health generally?

A.-- Very poor.

Q.16.-- State whether or not she requires care and attention, and whether she needs it all the time?

A.-- At all times she does not require close attention, but part of the time she does.

Q.17.-- Where is she living now?

A.-- She is living with me and my husband, and has been since last March.

Q.18.-- Since Mrs. McDowell has been living with you and ^{your} ~~xxx~~ husband, state whether or not T.C.McDowell has furnished anything towards her support and maintainance, either in clothing, money or provisions?

Obj.-- Objected to because irrelivant and immaterial and because the defendant is not bound to do so under the deed to him. *off the farm.*
James W.Orr, for deft.

A.-- He has furnished her nothing at all since she has been with us.

Q.19.-- Where was T.C.McDowell living during the time you lived with Mrs. McDowell both before and after you were married?

A.-- He lived in a place they call the Poor Valley.

Q.20.-- On his visits to the old home place, and after he moved back there, state whether or not he was kind, pleasant and affectionate to his mother?

A.-- He would hardly talk to her. He would speak if she said anything to him, but never in my presence ask her how she was or anything of that kind.

Cross Examination.

X.Q.1.--You stated that Mrs. McDowell furnished her own meat. How did she obtain it, or was it not fattened and produced on the farm?

A.-- They were fattened there on the farm, but J.E.McDowell had part of the farm rented and he fattened her hogs.

X.Q.2.-- How did J.E.McDowell fatten the hogs, out of whose corn?

A.-- In 1902 and 1903 he fattened them out of his own corn. I do not know as to any other years.

X.Q.3.-- Was it not out of the rent corn that he was to pay T.C. McDowell, produced on the farm?

A.-- No sir.

X.Q.4.-- Was not Clint Williams a renter on the farm at the time~~x~~ and was not the rent corn that was due from him to T.C.McDowell fed by your husband to Mrs. McDowell's hogs?

A.-- He was a renter in 1902, and at that time J.E.McDowell was not my husband, but as for most of the corn that was made on the place T.C.McDowell hauled it and had it hauled to the Poor Valley.

X.Q.5.-- I did not ask you what became of most of the corn that was raised on the place, I only asked you if the Clint Williams rent corn was not fed to Mrs. McDowell's hogs, please answer this?

A.-- No sir. T.C.McDowell had hogs fed there, it might have been fed to them, but as to her hogs J.E.McDowell fattened them.

X.Q.6.-- Were not all the hogs T.C.McDowell's, Mrs. McDowell's and J.E.McDowell's fed together?

A.-- She had hers in a pen to themselves and T.C.McDowell's were fed in a lot.

X.Q.7.-- What year was that?

A.-- 1902.

X.Q.8.-- Is it not a fact that while you lived there flour, meat coffee, sugar and other necessities were frequently brought there by your husband from King's store and the store of Chance, Marsee & Co. and from T.C.McDowell's store in Poor Valley, for the use and support of the family?

A.-- Not for the use of the family, but for work hands.

X.Q.9.-- Did not your husband buy such necessities at the store of Wright Stickley for the use of the family?

A.-- Sometimes he did. He bought some from T.C.McDowell.

X.Q.10.-- Do you know whether or not your husband paid for these things?

A.-- As for what he bought at Stickley's for the use of the family he has paid for them. As to what he got from T.C.McDowell there is an unsettled account between them and he will pay when it is settled

X.Q.11.-- You say that you went back there and lived from March 1903 to March 1904, and that T.C.McDowell did not furnish his mother any clothing during that time. How do you know this, and do you know it to be a fact of your own knowledge?

A.-- I know it to be a fact of my own knowledge. She bought some shoes from T.C.McDowell. As for other clothing during that time she got none except what some one gave her, or I furnished her myself.

X.Q.12.-- Might not he have furnished her clothing different times without your knowledge?

A.-- No sir.

X.Q.13.-- You say Mrs. McDowell furnished her own vegetables and meat. From what source did she get them?

A.-- The vegetables were raised in the garden, and as for the meat as I stated a while ago J.E.McDowell fattened some hogs that she claimed.

X.Q.14.-- Were not those hogs raised on the farm?

A.-- Yes sir, they were there on the farm.

X.Q.15.-- Who worked the garden?

A.-- My husband and myself in 1903.

X.Q.16.-- Did you and your husband use of the vegetables raised in the garden?

A.-- Yes, sir, we all lived together and ate together.

X.Q.17.-- Did you all fare reasonably well, and did Mrs. McDowell fare as well as the balance of you?

A.-- We did, and fared all alike.

X.Q.18.-- How did it happen that you and your husband left there in March 1904?

A.-- T.C.McDowell moved in on us, and we did not propose to live with him and his family in the same house.

X.Q.19.-- You all had some little trouble, and difficulty about that time did you not, or at least T.C.McDowell and your husband?

A.-- They did. have some trouble.

X.Q.20.-- You state that since Mrs. McDowell has lived with you and your husband, that Clint has not furnished her anything. Have you and your husband furnished her, or does she furnish herself?

A.-- My husband and myself have been furnishing her since she moved out with us.

X.Q.21.-- Did not Mrs. McDowell move considerable provisions, such as meat, canned goods, chickens &c., when she moved to where she now resides with you?

A.-- There was no considerable amount of meat, and as for that it was fattened on the halves. She had some canned goods and about 15 or 16 chickens I believe.

X.Q.22.-- How much meat was there?

A.-- There were six hogs fatted, but she had sold some of it to Wright Stickley to pay a store debt. My husband was due one-half of the hogs, and I think she had sold as many as six hams, and that would have taken her part of the ham meat. She sold these hams to Wright Stickley or gave orders to my husband to take them there.

And further this deponent saith not.

Wit. Claims 1 day 50¢

Ella McDowell

The further taking of the depositions is adjourned till Dec. 6th, 1904, at the same place.

This the 6th day of December,

Geo. P. Buddie N.P.

Met pursuant to adjournment Dec. 6th, 1904.

H.C.T. Ewing another witness of lawful age being duly sworn deposes as follows:

Q.1.-- Please state where you reside and what official position, if any you hold?

A.-- I reside at Jonesville, Va., and am county Clerk of Lee County.

Q.2.-- Are you the custodian of the records in said office.

A.-- I am.

Q.3.-- I will ask you if there is on record in your office what purports to be the last will and testament of John McDowell, deceased, and if you say there is, you will please file an attested copy of the same, together with the order probating the same, as a part of your deposition Marked ".H.C.T.E. No. 1."

Obj.-- The foregoing question and any answer thereto is excepted to because irrelevant, immaterial and inadmissible, the same being entirely foreign to the matters in issue in this cause.

James W. Orr for deft.

A.-- There is such a will on record in my office and I herewith

file a copy of the same together with the order of probate marked as requested.

Q.4.-- As County Clerk are you also Clerk of the Circuit Court of Lee County, and custodian of the files and papers in all suits in said court?

A.-- I am.

Q.5.-- Please state whether or not there is a suit pending in the Circuit Court on the law side there of of S.S.McDowell vs. T.C.McDowell, in debt, and if you say there is you will please file a copy of the account of off-sets filed by the defendant in said cause, and order of the Court entered at the last term of the Court, marked H.C.T.No.2"
E.

Obj.-- The foregoing question and any answer thereto are excepted to for the same reasons noted in the excepteion above. The account of off-sets referred to was filed in an action of debt on a note executed by the defendant to the plaintiff and is a seperate action and in no manner connected with this suit.

James W.Orr, for defts.

A.-- I herewith file same as requested marked as requested.

And further this deponent saith not.

Wit. Claims 1 day 50¢

J.E. McDowell

J.E.McDowell, another witness of lawful age being duly sworn deposes as follows:

Q.1.-- Please state your age, occupation and place of residence?

A.-- I am 53 years old, am a farmer, reside near Towell, Lee County Virginia.

Q.2.-- Are you acquainted with Susan McDowell and T.C.McDowell, and what akin if any are you to them?

A.-- I am. Susan McDowell is my mother and T.C.McDowell my brother.

Q.3.-- Please state where you have lived all the time since the death of your father in 1895?

A.-- I lived till June the 27th 1898 at Pocahuntas, I then elisted in the army, and on the 15th of October 1898 came home to the old home place on sick-furlow, remained at home, was discharged, and made my home there with my mother and Clint till March the 29th, 1904.

Q4.-- Please state who supported and maintained Susan McDowell, and paid her doctor's bills during all the time you lived there at the old home place with your mother and Clint?

A.-- She was principally supported by herself and paid her own doctor bills.

Q.5.-- In what way did she support and maintain herself?

A.-- She pretty well tended the garden, except plowing, she raised poultry, principally to pay her doctor bills and store accounts.

Q.6.-- During all the time you lived there do you know of Clint buying her any clothing, paying any doctor bills for her or ~~xxx~~ in any way supporting her?

A.-- I do not.

Q.7.-- Please state, in your opinion what it would be worth to decently support and maintain Mrs. S.S. McDowell, your mother, per year?

Obj.-- Excepted to unless the enquiry is confined to her living on the place, as irrelevant and inadmissible.

James W. Orr, for deft.

A.-- About \$175.00

Cross Examination.

X.Q.1.-- Your health was not very good when you came home on a sick furlough was it?

A.-- It was not good when I first come home.

X.Q.2.-- How long was it before you became able to work and maintain yourself?

A.-- I went to work the following December after coming home in October.

X.Q.3.-- Who did you work for?

A. -- McDowell & Combs, which firm was composed of T.C. McDowell and M.O. Combs.

X.Q.4.-- How long did you work for McDowell and Combs?

A.-- Off and on for about fifteen months.

X.Q.5.-- What did you then follow?

A.-- I worked for T.C. McDowell.

X.Q.6.-- When did you commence working for T.C. McDowell and how long did you work for him?

A.-- I commenced in the Fall of 1899, and worked for him until about April 1st, 1902.

X.Q.7.-- Did you live with your mother and T.C.McDowell during the time you were working for McDowell and Combs, and T.C.McDowell?

A.-- A part of the time. I made that my home, though I was sometimes working away from there.

X.Q.8.-- When T.C.McDowell moved to the Poor Valley about the 1st of April 1902, what did you do after that?

A.-- I farmed most of the time there on the home place.

X.Q.9.-- Under what arrangements did you farm?

A.-- Under contract with T.C.McDowell.

X.Q.10.-- How long did you continue on the farm under the contract with T.C.McDowell?

A.-- Two years.

X.Q.11.-- State whether or not your rental contract with T.C.McDowell and your living with your mother was agreeable with her?

A.-- Not altogether it wasn't.

X.Q.12.-- What objection did she make to it?

A.-- Clint would not agree what price he was to pay me for her to take care of her. He promised to draw writings between us what he would pay me, but did not do it.

X.Q.13.-- I have asked you what objections she made to you living with her there on the place. You say it was not entirely agreeable with her. Will you now please answer the question?

A.-- I answered it just as plain as I could. Clint moved off without drawing any writings of that kind. And this was the only objection that she made

X.Q.14.-- Then she did not object to your coming there and living in the house with her, did she?

A.-- No sir.

X.Q.15.-- Did she object to T.C.McDowell leaving and your moving in?

A.-- No she did not object to his leaving, and I was already there.

X.Q.16.-- Is it not a fact that your mother had Clint to draw up the contract between you and him and you both to sign it, which you did and then it was left with her?

A.-- No sir.

X.Q.17.-- Is it not a fact that you and your mother represented to G.W.Smith, the father-in-law of T.C.McDowell, that he, T.C.McDowell, was not able to work on the farm and that he ought to stay in the Valley another year, and did you not do this a short time before he moved back to the old place?

A.-- I have no recollection of that.

X.Q.18.-- Did you not further suggest to Mr. Smith that Clint ought to get a job at drumming, that he was not able to work on the farm?

A.-- I did.

X.Q.19.-- Did you not make the same suggestions, or one or the other of them to your brother Hillary McDowell?

A.-- I have no recollection of doing so.

X.Q.20.-- Why did you make the suggestion to Mr.Smith that Clint ought to get a job of drumming?

A.-- Because my mother told Mr. Smith that if Clint moved home she would have to move out, that the way he had treated her she could not live with him.

Obj.-- The foregoing answer in so far as the witness unnecessarily and uncalled for, undertakes to detail what Mrs. McDowell should have said is excepted to because not responsive to the question.

James W.Orr, for defts.

X.Q.21.-- Is it not a fact that you were pretty well situated and that you and T.C.McDowell had had some disagreement and that you knew if he came back that you would have to move out and that this was the reason why you were anxious for him to get some other job and remain away

A.-- It is not.

X.Q.22.--Did you not last Spring, a short time before T.C.McDowell moved back from Poor Valley tell Nancy Cheek, Vice Cheek and Wright Cheek just west of their house that if Clint had staid in Poor Valley another year you and your mother would not have lawed him, or words to that effect?

A.-- I did not.

X.Q.23.-- Did you not tell these same parties at the same time and place that you would make Clint spend what he had and make his wife spend her \$1000.00?

A.-- I did not.

X.Q.24.-- Did you not tell Gordon Hounshell, last Spring, at his shop in this County that he had better settle with Clint at once for when you moved your mother was going with you and she would sue Clint for maintainance and brake him up?

A.-- I did not say that to Hounshell. He was kicking and wanting me to pay what I owed him. I did, and then asked him if he had got a settlement out of Clint. He said he had not gotten a settlement since the death of My father, and I told him that he ought to get a settlement. I know of his coming there and not getting a settlement with Clint.

X.Q.25.-- By way of refershing your recollection, did you not say to Mr. Hounshell what I have asked you, and did he not reply I do not see how you can do that according to Clint's deed, and didn't you then answer "yes I can, I have been to town and looked at Clint's deed"?

A.-- No sir.

X.Q.26.-- Is it not a fact that you have been very active in the bringing and prosecution of this suit, and looking after the same?

A.-- I have.

X.Q.27.-- Have you any personal pecuniary interest in the result of the suit?

A.-- No sir, only for my mother.

X.Q.28.-- When did your mother first agree to leave the old place and go and live with you?

A.-- The next morning after Clint moved in home.

X.Q.29.-- Had there been nothing said between you and her in regard to her going to live with you before that?

A.-- No sir.

X.Q.30.-- What property and money &c. did your mother take with her when she went to live with you?

A.-- No money, some household and kitchen furniture, two beds, cook stove, safe, sewing machine; cow and heifer, about 15 chickens, 12 sheep, there was a little meat, but I couldn't tell how much; three hogs. That is all I remember.

X.Q.31.-- You state that two beds was all the beds your mother owned at the time she went with you?

A.-- Yes sir.

A.-- Yes sir.

X.Q.32.-- While Clint was living in the Poor Valley and you were living with your mother, how much work did you do on the farm for Clint, and how much did he pay you for it?

A.-- I did no work on the farm only under my contract.

X.Q.33.-- Did you and your wife and Mrs. McDowell and the hired girl, if there was one, all cook together and eat together, or how was that?

A.-- We did all cook together and eat together.

X.Q.34.-- Who furnished the provisions that were used by you all on the table?

A.-- Myself, my wife and my mother furnished them.

X.Q.35.-- From what source did your mother furnish what she provided?

A.-- She didn't furnish anything only what she got out of the garden.

X.Q.36.-- Did she have no chickens, or hogs that she claimed as her own~~xxx~~ and that were raised on the place?

A.-- She did.

X.Q.37.-- Well what did she do with them.

A.-- I fattened her hogs on the halves, and she sold the chickens

X.Q.38.-- Did you not purchase sugar, coffee, tobacco, lamp-oil, flour &c. at the stores of Wright Stickley, E.R.King and Chance Marsey & Co. and have the same charged to T.C.McDowell, and use these things in the family?

A.-- I purchased merchandise at Stickleys, Kings' Chance Marsey & Co. for hands and had them charged to T.C.McDowell. I did not purchase such things, have them charged to T.C.McDowell and use them in the family.

X.Q.39.-- Did you not go to Clint's store in the Poor Valley, in his absence and get provisions and carry the same home for yourself and your mother, and give no account of the same to T.C.McDowell ~~xxxxxxMcDowell~~?

A.-- No sir.

X.Q.40.-- Did not Clint send you and your mother provisions from his store in the Poor Valley by his hands Simpson Delp, Reben Winkle T.E.Mooney and Robert Reese on different occasions?

A.-- No sir. He sent things over there for hands.

X.Q.41.-- Did you not tell Bob Reese and other hands of T.C.McDowell's there on the farm, some time last winter that you you couldn't move until you got a place fixed for your mother to go to?

A.-- No sir, not last winter. I did tell him next morning after Clint moved in.

X.Q.42.-- Did you ever collect any sums from Clint for your mother?

A.-- I did. Last July she sold him some sheep, and I collected that and paid it over to her. He has paid me some other amounts for *her* but I can't recollect just what now.

X.Q.43.-- Did you ever collect any checks?

A.-- I did collect some of his check in favor of his mother. I could not tell how many nor how much.

X.Q.44.-- Did you not go to E.R.Kings' store and other stores and get merchandise for hired girl living with your mother, and have the same charged to T.C.McDowell?

A.-- I remember of two girl that ~~xxxxxx~~ I got goods for at E.R.Kings. I got \$12.40 for Ella Jessee, and about \$2.00 for Mat Jonnigan.

X.Q.45.--Did not Henry Owens, Samuel Wolfe, Samuel Winkle, Robert Reese and other hands of T.C.McDowell's work in the garden in years 1902 and 1903?

A.-- No sir, none of them.

X.Q.46.-- Did not you and Clint turn your hogs together with some claimed by your mother all together in a field of corn named the Peter field, and "hog it down" during the year 1903?

A.-- Yes sir, Clint turned in 14 and I turned in 6 that I was fattening for my mother on the halves.

X.Q.47.-- Whose field of corn was this?

A.-- Two-thirds of it belonged to T.C.McDowell and one-third of it to me.

X.Q.48.-- You state that you think it is worth \$175.00 per annum to support and maintain your mother. Do you mean that it would cost Clint that much to support her on the farm, or that it would be worth that much to support her somewhere else?

A.-- I mean that it would cost that much on the farm or anywhere else.

X.Q.49.-- Do you think it would cost him no more to support her

somewhere else than for him to support her on the farm?

A.-- I would nat make any difference if I were in his place and owned the farm.

X.Q.50.-- Then you think that it has cost, or been worth \$175.00 per year to support and maintain Mrs. McDowell since the death of her husband?

A.-- Yes it has.

Re Examination.

Q.-- When T.C.McDowell moved to the Poor Valley did he make any arrangements or contract with you or any one else to support and maintain his mother?

A.-- He told me he would pay me for taking care of her.

Q.-- Did he do it?

A.-- He never did.

Q.-- You spoke about collecting from Clint checks and money for your mother. Please state if you know what the checks and money were for?

A.-- It was to pay what he owed her.

Q.-- Was it contributed toward her support and maintainance, or debts he owed to her?

A.-- It was debts he owed her.

Q.-- While Clint lived in the Poor Valley did he get any supplies from you or your mother at the home place, if so what?

A.-- He got most all of his supplies from the home place.

Q.-- Did you ever furnish your mother any clothing or provisions?

A.-- I have.

Q.-- Please state whether or not T.C.McDowell has ever furnished your mother anything x in the way of support and maintainance since she left the old home place and went to live with you?

Obj.-- Objected to because irrelivant and immaterial, as he is not bound to do so, if she left the home place voluntarily and went somewhere else.

James W.Orr, for deft.

A.-- He has not.

Q.-- Please state whether or not your mother during all the time you staid with her at the home place worked a great deal about the house and garden, and if answer she did state whether or not that

work and labor amounted to enough to pay for her board and clothing.?

Obj.-- Excepted to because suggestive and leading.

James W. Orr, for deft.

A.-- She worked all the time most. She did work enough to pay for her board and clothing.

Re-Cross Examination.

Q.-- Then if she worked all the time most she was not sick much and not much doctor bills to pay were there?

A.-- There was not much doctor bills to pay up to December, 1902.

Q.-- How much clothing and provisions did you furnish your mother while she was at the old place?

A.-- While I was at Pocahuntas I sent her 50 lbs of sugar at one time, and some shoes, a dress and 12 lbs of coffee. That was the Fall of 1895. I have furnished her things since then but I cannot tell what nor how much.

Q.-- About the time that you furnished the articles above sokpen of did you mother not send you a box of hams?

A.-- No sir.

Q.-- Did she at any time?

A.-- She sent me some shoulders about that time and I paid her for them. She did not send me any hams at all.

Q.-- Did you pay her for them with the sugar and things which you mentioned that you sent to her?

A.-- No sir, I paid for them by having her picture and her husband's picture enlarged for her.

Q.-- Then you simply made a present to your mother of the sugar &c. that you sent her?

A.-- She wrote me that she needed them and I sent them.

Q.-- This was soon after your father's death was it not?

A.-- It was in the fall after my father's death ~~xx~~ in February.

Q.-- Was your mother and Clint and the balance of you children in straightened circumstances at the time your father died, and especially your mother?

A.-- I was, but my mother was not then.

Q.-- You state that T.C.McDowell told you that he would pay you for taking care of your mother, and that he never did so. Is it not a fact that you was to have your board there on the premises

for taking care of your mother, and were you not amply paid in what you got off of the farm for everything that you did towards her comfort and care?

A.-- No sir. He was to pay me for it.

Q.-- When and where was any contract made between you and Clint that he was to pay you in any manner other than the manner I have indicated above?

A.-- Right there at home, April the 1st 1902, the day he drew the contract abot the farm.

Q.-- Why was it that that was not put in the writing?

A.-- Clint claimed that he was in a hurry to start to Poor Valley and did not take time to draw up writings.

Q.-- He did have time to draw writings did he not that was signed by you both?

A.-- He did for the farm, but he did not about the other.

And further this deponent saith not.

wit. Clovis 1 day .50

J. E. McDowell

Virginia, Lee County, to-wit:

I, Geo.P.Cridlin a notary public in and for the County and State aforesaid do certify that the foregoing depositions of Susan McDowell, Wright Stickley, W.N.McNiel, J.F.Jones, F.R.Stickley, Lurla Mulwe, Ella McDowell, H.C.T.Ewing and J.E.McDowell, were taken subscribed and sworn to before at the times, places and for the purpose in the caption mentioned.

Given under my hand this the 8th day of December, 1904.

Geo. P. Cridlin N.P.

Susan McDowell

vs. { Ida Clay.

T. C. McDowell

Depositions.

Sub.	Cost
Susan McDowell	
Wright Stickley	50
W. N. McKel	50
J. F. Jones	66
F. R. Stickley	50
Lula Mulbre	50
Ella McDowell	50
H. C. T. Ewing	50
J. E. McDowell	50
	\$4.16

Notary fee 13 hrs. \$9.75 Paid

Filed Dec. 8th by Geo. P.
Ludlow, Notary.

H. C. T. Ewing, Clerk.

The depositions of T. C . McDowell

Taken by consent of parties at the law office of James W. Orr at Jonesville, Virginia on the 7th day of February, 1905, to be read as evidence on behalf of the defendant in a certain suit in Chancery pending in the Circuit Court of Lee County, Virginia, in which S. S. McDowell is plaintiff and the said T. C. McDowell defendant.

PRESENT Duncan & Cridlin and M. G.

Ely for plaintiff.

Orr & Noel for defendant.

The said T.C. McDowell a witness of lawful age,
and being duly sworn deposes and says:

Q. 1 Please state your age, residence and occupation?

A. I am 28 years ^{old} White Shoals Neighborhood, Lee County, Va.
and am a farmer.

Q. 2. Are you the defendant in this suit?

A. I am.

Q. 3 Where did you reside at the time of your father's death?

A At my father's home at White Shoals?

Q. 4 Were you the youngest child or how was that?

A. I am.

Q. 5 When did you leave the old home-stead and move to the
poor valley?

A. April 1st, 1902.

Q. 6 When did you move back to the old place?

A. March 1904.

Q. 7 What arrangement, if any, did you make for the cultivation
of the farm and the care of your mother, when you left and
went to the poor valley, and with whom did you make such
arrangement, if you did so?

A. I made arrangement in part with E. E. McDowell, my brother,

and with Wright Stickley, a merchant.

Q. 8 Was J. E. McDowell married at the time, or single?

A. He was single, but married in March, 1903.

Q. 9 Please state what arrangement you made with your brother? in reference to the farm and your mother?

A. Question by C. T. Duncan,

Was the contract between you and your brother herein spoken of verbal or in writing?

A. It was partly a verbal contract and partly in writing.

Any answer to the question propounded above in chief is objected to because the writing is the best evidence of what the contract was. C.T.Duncan for Plff.

A. I left J. E. McDowell with my mother, he was to do half the work on the farm, and have one-third of the grain, I believe, and one-fourth of the hay is my recollection. He was also to stay there with my mother and take care of her.

Q. 10 Have you the written contract between yourself and J. E. McDowell?

A. I have not, I left it with my mother to hold, and she has it.
Q. 11 just now informed by J. E. McDowell that he has it.

Q. 11 You speak of some arrangement with Mr. Stickley, please state what that was?

A. I made arrangement for her to get her necessities at his store.

Q. 12 Did you ever pay Mr. Stickley for the necessities gotten there for the support and use of your mother?

A. I did.

Q. 13 Please state whether or not the arrangements by you with your brother J. E. McDowell and Wright Stickley were made known to your mother and were agreeable with her?

A. They were, and seemed to be perfectly agreeable.

It seemed that J. E. McDowell was my mother's favorite.

Q. 14 Did your mother, during the time that you lived in the Poor Valley receive her support and maintainance off of the farm, or under the arrangement that you have spoken of or how was that?

A. She did. I furnished her some stuff out side of that. and from different stores, and I furnished some provisions and necessaries from my store in the Poor Valley.

Q. 15 D id you pay any orders for your mother or issue any checks during the time you were in the Poor Valley? if so how many, and in whose favor?

A. I did pay an order for \$5.00 in favor of Bill Short, dated July 24th, 1902, and paid a check drawn in her favor by me on Powell's Valley Bank dated June 17th, 1902 for \$5.00, also another check drawn by me in her favor on the same bank dated ^{Oct.} 20th, 1902, for \$13.80.

Q. 16 Please state whether or not you supported and maintained your mother on the farm after the death of your father and up to the time you moved to the Poor Valley?

Objected to because it asks the witness for an opinion, and does not ask him what he did and things he furnished toward the maintainance of his mother.

C.T.Duncan.

A. I did.

Q. 17 State how or in what manner you supported and maintained your mother during the above period.

A. I suppose that she was bountifully supported, she had plenty to eat and ware. She had plenty of bedding and bed clothing that she derived under the will of my father.

Q. 18 Did she call upon you for anything during that period that you failed or refused to do ~~or~~ furnish according to her request?

A. No sir.

4.

Q. 19 Did she make any complaint to you of any failure upon your part to support and maintain her during that period, or while you were in the Poor Valley, or at any other time as long as she remained on the farm, if so state what it was?

A. No. She never complained about not being supported and maintained on the farm, but last Christmas one year ago when myself and wife were over there, she said that I was not able to cultivate the farm, and that if I moved back she would have the farm rented out.

Q. 20 State whether or not you and your brother J.E. McDowell had, about that time, had some trouble or differences or how that was?

A. We had.

Q. 21 State whether or not your mother at any time suggested to you, that on account of the state of your health that it would be better for you to stay in the Poor Valley or some where else and follow some business other than farming?

A. She did, along about the fall of 1903 or winter. At one time later she said that she had not driven me off from home and was not going to drive me back.

Q. 22 State whether or not, ^{at} any time you permitted your mother to raise live stock on the farm, and use and enjoy the proceeds thereof, or how this was?

A. She has kept all kinds of stock that she wanted to keep since my father's death ~~that she wanted to keep~~, at my expense, consisting of horses, cattle, sheep, hogs, chickens and turkeys, and she has sold such property and received the proceeds except one year, I raised and fattened some hogs for her, and the market price was 4cts. but she sold them to me at 2cts that year.

Q. 23 State whether or not you have permitted her to use and sell vegetables, fruits &c raised on the farm.

A. I have the principal part of the time.

Q. 24 State whether or not you were kind to your mother, she to you, and whether you got along together, or how this was?

A. I was kind to her, and she was kind to me, until my brother J. E. McDowell came there to make his home, soon afterwards she seemed to think more of him than she did of me, and I could hardly do anything to please her.

Q. 25 State when you had the first intimation that your mother was going to leave you or leave the old place, and make her home elsewhere?

A. I believe that it was in January, 1904. I sent J. E. McDowell a note by Bob Reese telling him that he must hunt him a new home when Bob returned he said that J. E. McDowell ^{said he} would not leave until he got ready, that he could ^{live in a} rail pen so far as he was concerned, but he had to fix a place to take Ma to, this was the first intimation that I had of the probability of her leaving.

Q. 26 Did you ever say anything to your mother about staying and if so, when and what was it, and what did she say?

A. At one time I proposed to my mother after telling her that I had heard she was going with J. E. McDowell, that if she did not want to reside with me and my family that I would furnish her two rooms, ^a hired girl & support her. She made no reply to that. On the morning she left at the breakfast table I asked her if she was going with J. E. McDowell. She said I have studied it all over, and you are weakly and I am weakly and I think it best for you to go.

Q. 27 Did you say anything further to her on that occasion or at any time to the effect that if she ~~was~~ became dissatisfied at your brother's that you would come or send after her?

A. I told her I would at any time if she became dissatisfied.

Q. I told her I thought it a foolish move of her..

Q. 28 Did you ever pay any doctor bills for your mother, and if so to whom?

A. I have, to Dr. W. L. Spencer.

Q. 29 Were you ever called upon for any such Doctor bills that you failed or refused to pay?

A. I was not.

Q. 30 When your mother left state whether or not you paid her anything for what was in the garden?

A. I bought her onions and paid her \$5.00 for them.

Q. 31 State whether or not she said on that occasion that she would send back and get her fruits and vegetables just as she all ways had?

A. She did.

Q. 32 State whether or not you furnished your mother while on the farm any wearing apparel or goods to make such?

A. I did, some.

Q. 33 State how it happened that you did not furnish all?

A. I suppose that they were all purchased at my expense, but I did not make all selections, because I made a few selections that were not satisfactory with her, some were too good, and some were not good enough, so I let her make her own selections.

Q. 34 Did you pay for the work that was done on the farm?

A. I did.

Q. 35 Please state at what stores ^{you} ~~who~~ have paid for necessary articles purchased by you or your brother for the support and use of your mother?

A. I did ^{at} Wright Stickley, E. R. King, Chance Marsey & co^d and my own.

Q. 36 When did you brother J. E. McDowell marry.

A. March, 1903.

Q. 37 Whom did he marry?

A. Ella Jessee.

Q. 38 Was she or not a young lady that had been living with

your mother?

A. She lived there some in 1902.

Q. 39

Met pursuant to adjournment this Feb. 11th, 1905.
when the examination of T. C McDowell was continued.

Q. 40 You have spoken of two checks issued by you in favor of
your mother, one June 17th, 1902 for \$5.00; the other
October 20th, 1902 for \$13.80 also an order given by your
mother in favor of Bill Short for \$5.00 dated July 24th,
1902, will you please file those checks and order with
your deposition Marked " one two and three" respectively.

A. I file the same as requested.

Q. 41 Did you ever send for a physician or physicians for your
mother when she was ill, if so whom?

A.

This deposition was not completed on account of the fact
that the case was this day settled by agreement between the parties,
and the deposition ordered to be closed.

This April 17th, 1905.

L. C. McDaniell.

adto { Deps.

³
Susan McDaniell.

The for Depo-12-25-

\$500

July 24 1902

Mr J. B. McPomery
Pay Bill I have
five dollars for
me for oil
by J. B. McPomery
J. B. McPomery

Filed with J. C. McDowell's
Depo.

(3)

Acme Co

\$2600

Minny L
Security Lock

Jonestville, Va. June 17th 1902 No. 80



Howell's Valley Bank

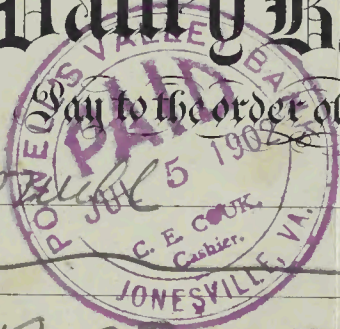
Pay to the order of

S. S. McChesney

\$5⁰⁰/₁₀₀

Five
Cash

Dollars



A. C. McChesney

J. McDonald
J. E. McDonald
J. E. M.

Pay to the order of
POWELL'S VALLEY BANK
JONESVILLE, VA.
WRIGHT STICKLEY.

Filed with J. E. McDonald
Sept. 9.

(1)

Jonesville, Va. *Oct 20* 190*2* No. *184*



Howell's Halley Bank

Pay to the order of

S. S. McDowell

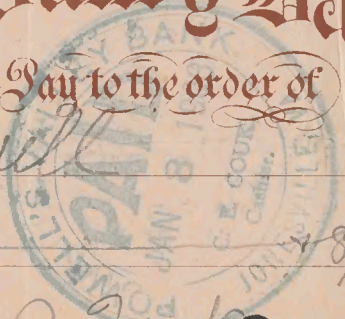
\$ *13*^{*80*}

Hurst

80/100 Dollars

For Balcon

S. S. McDowell



no money
of money

ANY BANK OR BANKER
PAY TO THE ORDER OF
FENNINGTON BANK
A. G. HILL
FENNINGTON

File with G. & Mc-
Cawley & Co.
(2)

After 5 days, return to

DRYDEN, VA.



J. B. Pennington.

Mr Westy or aty
Jones Hill
Lee Co Va



I, John M. McDowell being in feeble health and knowing that
and
life is uncertain and death is shure to come being in my right
mind desiring to dispose of my estate by will this being my last will.
I do will bequeath to my wife Susanah McDowell all of my personal
property with exceptions of my farming tools and all of the household
and Chicken furnituere, and all of my grane meet and in fact all the
provision that I have on hand at this time I all so doth will and be-
queath unto my Sone T. C. McDowell all of my farming tools such as
plows hoes gearing and wagon Harrow and Moing Masheen and rake. I
allso doth will and bequath unto my dauter Molley Muncy She having
recieved five hundred dollars all ready, and when the other children
are made up eacel with her then out of what is lef then all the re-
mander is to equely divided among my children. Hillry McDowell hath
recieved five hundred dollars all ready Urvin McDowell hath recieved
five hundred dollars allready. Tildy Jones has recieved five hundred
in the price of land I allso doth will unto my dauter Lorinda Ely
foure hundred dollars to make her equill with the others. I allso
doth will unto my dauter Lisa McDowell five hundred dollars to make
her equal with the other children. I allso will that all of my land
that is to say ^{the} Andrew Edmonson on Yallow branch containing 13.2 acres
and allso the William Spencer farm containing 50 acres all of which
is to be sold by Exeter the said land to be sold privately on one and
two years time after my death to the bst advantage and out of the
proceeds of the said land the maney to be paid to my said children
maken them up eacel. Allso I have in notes to the amount of about
\$18.95 dollars all of which is to be Equelly divided among my said
children so much out of the notes lands is to be retained to pay my
debts, this will is not to take effect untill the first day of Jan-
uary 1896 the rents of the said lands menchioned in this will is to be
reserved for the benifits of my of wife Susanah McDowell. Now if eney
one of my heirs is dissatisfied with this will, and bring suit at law
thay are to be descarded by me whereunto I set my mane and seal

John McDowell (Seal)

J. J. Maness

C. C. Blankenship.

I John M. McDowell make, J. J. Maness my Exeter.

Virginia,

At a Circuit Court begun and held for Lee County at the Court-house thereof on Monday March the 4th 1895.

The last will and testament of John McDowell deceased was this day produced in Court and proved by the oaths of C. C. Blankenship and J. J. Maness Subscribing witnesses thereto and is ordered to be recorded.

A Copy

Teste: A. B. Munsey, Clerk.

Copied from Records of Wills & Bonds Circuit Court, page 122.

A Copy, Teste: He J. Ewing, Clerk.

A COPY, Teste: _____ Clerk.

Copied from Records of Willis & Bond's Circuit Court, Page 188.

Teste: A. B. Munsey, Clerk.

A COPY

Recorded.

and J. J. Munsey, appearing witnesses thereto and is ordered to be
day produced in Court and proved by the oaths of C. C. Blankenship

The last will and testament of John McDowell deceased was this
March the 1st 1888.

At a Circuit Court begun and held for Lee County at the Court-
Virginia,

John M. McDowell
Will

H. C. F. C. to 1.
filed with deposition of
H. C. F. C. Aug.

Geo. W. C. C. W. P.

Copy
Clerk 602

I John M. McDowell make, J. J. Munsey my Executor.

C. C. Blankenship.

J. J. Munsey

John McDowell (seal)

S. S. McDowell in Account with T. C. McDowell.

1901.	To pasturing Sheep for her.....	\$37.00
	To Feeding Sheep and Caring for same.....	\$25.00
	To working in garden and having same done....	\$20.00
	Use rents, and Profits of Orchard.....	\$20.00
	To Wintering Calves.....	\$20.00
1902	Pasturing Sheep.....	\$37.00
	Feeding and Caring for sheep.....,,,	\$25.00
	Working Garden and having same done.....	\$20.00
	Use Rents and Profits of Orchard.....	\$20.00
1903	Wintering Calves.....	\$20.00
	Pasturing Sheep.....	\$37.00
	Feeding and Careing for Sheep.....	\$25.00
	Working Garden and Having some done.....	\$20.00
	Use rents and Profits of Orchard.....	\$20.00
	Wintering Claves.....	\$20.00
		<hr/>
		\$365.000
	Paying for her Attorney's Fee.....	\$25.00
		<hr/>
		\$390.00

Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereof on Wednesday the 21st day of September, 1904.

Costs: S. S. McDowell

Clerk \$4.96 vs. In Debt.

Shff. \$1.10 T. C. McDowell

Tax \$1.00 This day came the parties by their attorney, whereupon

Atty. \$2.50 the defendant filed an account of off sets amounting to

To.. \$9.56 \$390.00 with notice that the same would be relied on as a defence of so much of the debt in the declaration mentioned; to which account and notice of off sets the defendant plead non assumpsit, and the statute of limitations on which issue was joined. And said account of offsets not equaling the amount of the plaintiffs debt, it is considered by the Court that the plaintiff recover of the defendant the sum of \$94.51 part of the debt in the declaration mentioned with interest thereon from Feby. 18th 1901 till paid, and as to residue and the issue therein, the cause is continued.

Common Law Order Book No. 6, page 269.

A Copy,

Teste: H. T. Ewing Clerk.

Tease: _____ Clerk.

A copy,

Common Law Order Book No. 6, Page 388.

the cause is continued.

1801 till paid, and as to residue and the same therein,

citation mentioned with interest thereon from Feby. 1800

defendant the sum of \$41.51 part of the debt in the de-

clared by the court that the plaintiff recover of the

equalling the amount the plaintiff's debt, it is con-

of which the was joining. And said account of offsets

which plaintiff assents to and the statute of limitations

reference of to which the debt in the declaration men-

of \$41.51 with notice that the same would be relied on as

defendant to the account of off sets amounting to

This day came the parties by their attorneys, whereupon

as. T. C. McDowell

Costs: S. S. McDowell

Lusan Mc Dowell
vs. { In Chy
T. C. McDowell

Copy Bill of off-sets
and order in case in debt
of Lusan McDowell v. T. C. McDowell

H. B. T. O. to L.
Filed with deposition of
H. B. T. O. by J. P. Cullen

Court-house thereof on Wednesday the 21st day of September, 1804.

At a Circuit Court continued and held for Lee County, at the
Virginia,

Jonesville, Va. *Aug 24* 189*5*

No. *~~111~~*

POWELL'S VALLEY BANK

Pay to *T. C. McGowell*

or Order \$ *14.10*

Eleven Dollars & ten cts

14.10 Dollars

P. S. Bessit

Exhibit
"A"

Filed with deposition
of Susan McDowell.
Jas. C. Criden N.P.

Richmond & Bond

LAW OFFICES

CASE CITY VIRGINIA

Susan McDowell

vs. { Du Cley.

F. C. McDowell

Exhibit "A" filed
with deposition of
Mrs. Susan McDowell.

Susanna McDowell

Vs.

In Chancery.

T. C. McDowell,

Whereas, the said Susanna McDowell has now pending in the Circuit Court of Lee County, an action at law of debt to which the said T. C. McDowell has filed certain pleadings, and the said Susanna McDowell has also pending her suit in Chancery against the said T. C. McDowell, and it being desirous to settle and adjust both of said suits without further litigation it is hereby agreed that the said T. C. McDowell shall withdraw his defense in the action at law and judgment is to go thereon. Which judgment is to be paid in the following manner, to-wit: \$75.00 on or before the first day of November, 1905, and the residue of said judgment to be divided into three annual payments, the first payment to be come due the 1st day of July, 1906, and the others annually thereafter, and said chancery cause is to be settled as follows; A decree to go for the sum of \$150.00 and for the sum of \$75.00 each year beginning on the first day of January, 1906, and continuing during the life time of Susanna McDowell, and to be paid quaterly thereafter. And it is further agreed that should the said Susanna McDowell elect to live with the said T. C. McDowell, and should it be agreeable to him for her to do so, the said \$75.00 yearly allowance may be paid by him in her support and maintainance at his home. It is further agreed that a decree shall go down in said chancery cause carrying out this agreement. Said recoveries to constitute a lien upon the said land, and each party is to pay her own and his own costs in said Chancery suit.

This the 17th day of April, 1905.

L. T. Lawrence for Plff
M. G. Zay
Geo. P. Brubaker
Orville Hall for Deft.

Susan McDowell.
with $\frac{1}{3}$ Agreement.
J. C. McDowell.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon T. C. McDowell

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held
for the said court, on the 1st Monday in August 1904 to answer a
bill in chancery exhibited against him in our said court by S. S. Mc
Dowell

And have then there this writ. Witness, W. E. Ewing ~~A. B. Munsey~~ Clerk of our said Court, at the
court-house, the 29th day of June 1904 and in the 12 8th year of the
Commonwealth.

W. E. Ewing Clerk

Executed by delivering
a true copy of
the Within Comes
to T. L. McDowell
this July 30th 1904
J. S. Weston D.S.
for P. M. Ball S. L. de

Form No. 300½.

J. S. McDowell

vs. {

SUBPOENA

IN CHANCERY

T. L. McDowell

Duncan, Bridlin

+ M. S. Ely p. q.

To first August Rules.

Wisconsin Court.

The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *F. R. Stickley,*
Wright Stickley, S. M. Smith, A. A. Little,
J. F. Jones, Dr. W. E. Bruce, W. W.
McNeil, and J. E. McDowell

to appear before *Geo. P. Cridler, Notary Public* *office of M. G. Ely, Freewill Va*
~~our Circuit Court~~ for the County of Lee at the court house, on the
2nd day of *December* 190*4*, to testify *in behalf of the plaintiff in the*
Chancery Cause of Susan McDowell vs. T. C. McDowell ~~and the truth to say before~~
~~the Grand Jury then to be in session.~~ And this they shall in no wise omit under the
penalty of \$100. And have then there this writ.

WITNESS, H. C. T. EWING, Clerk of our said Circuit Court, the *28* day of
Nov 190*4*, in the 1*29* year of the Commonwealth.

H. C. T. Ewing, Clerk.

**SUBPOENA FOR WITNESSES
BEFORE GRAND JURY.**

To 2 day of Dec.,

1904

Executed by summoning
all the within witness
Dec. 18/1904,
J. M. Ball,
J. L. Co.

Sheriffs Fee \$1 60